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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,363	12/05/2003	Fernando Stroppiana	670091.402	8247
500	7590	03/09/2006	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092			TORRES VELAZQUEZ, NORCA LIZ	
		ART UNIT	PAPER NUMBER	
			1771	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/729,363	STROPIANA, FERNANDO
	Examiner	Art Unit
	Norca L. Torres-Velazquez	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-13, 15, 16, 18-21 and 36-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13, 16, 18-21 and 36-44 is/are rejected.
- 7) Claim(s) 15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 December 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on December 16, 2005. These drawings are acceptable.

### *Response to Arguments*

2. Applicant's arguments filed December 16, 2005 have been fully considered but they are not persuasive.

a. With regards to arguments regarding the claimed foamed layer, it is noted that the HARKINS reference discloses the use of a foam layer applied to the side of the product that is intended to contact the floor. (Col. 2, lines 41-43)

b. With regards to the “layer of absorbing material” limitation of independent claim 1 and new claim 39, it is noted that the term “absorbing material” is not specific as to what the material absorbs. It could be interpreted as being sound absorbing, water absorbing, etc.; therefore, the claims are rendered indefinite herein. It is noted herein that the material that applicants describe in the Specification as constituting the claimed “absorbing material” is a non-woven textile having a density ranging from about 50 to 150 g/m<sup>2</sup> and preferably is a polyester non-woven textile with non-oriented fibers. It is suggested herein to claim the “absorbing material” in terms of the material constituting it to overcome the present indefiniteness rejections.

c. Applicant's arguments indicating that these the claims are directed to a composite sheet having an absorbing material *into which a glue layer can be absorbed*, have been considered, however, as noted above the term “absorbing material” as claimed is very broad and indefinite. Therefore, the Examiner maintains the rejection including the

POTEET reference in which a nonwoven material is used and equates such material to the presently claimed “absorbing material”.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1-13, 15-16, 18-21 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With regards to the “layer of absorbing material” limitation of independent claim 1 and new claim 39, it is noted that the term “absorbing material” is not specific as to what the material absorbs. It could be interpreted as being sound absorbing, water absorbing, etc.; therefore, the claims are rendered indefinite herein.

6. Claim 11 recites the limitation "the layer of the adhesive material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-13, 16, 18-21 and 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over HARKINS, Jr. (US 4,698,258) in view of POTEET (US 4,853,280).

HARKINS, Jr. relates to products for covering surfaces such as floors, walls, countertops, furniture, among others. (Col. 1, lines 1-5) The reference teaches a composite web comprising two parallel layers of nonwoven fiber-glass webs each impregnated with a solidified resinous and separated from each other by a core layer of solidified resinous composition which is bonded to the resinous composition used to impregnate the fiber glass layers. (Col. 4, lines 55-60) The reference further teaches that the non-woven fiberglass webs usually consist solely of the synthetic binder and the glass fibers, although the fibers may be in a mixture with polyester fibers. (Col. 5, lines 20-24) The reference teaches the use of polyvinyl resins for the construction of the fiberglass webs and teaches that best results are obtained with a dispersion of resin in a plasticizer in the form of a plastisol. The reference also teaches, "gelling". (Col. 5, lines 6-9, lines 41-59; Col. 7, line 32) The core layer is comprised of the same material that is used for impregnating the fiberglass webs. The composition may be applied as a plastisol and also as a *dry blend*. (Col. 5, lines 63-66) It is the Examiner's interpretation that by dry blend it encompass materials such as granules. The reference recognizes the application of adhesives in the outer layer of one of the fiberglass webs in applications such as tile products. (Refer to Col. 6, lines 55-61 and Col. 17, lines 46-48) The reference teaches that the fiberglass webs may range in overall thickness from 0.005 inches to 0.030 inches [0.127-0.762 mm]. (Col. 5, lines 12-14) With regards to the thickness of the core layer, the reference teaches that it should be at least about the sum of the thickness of the fiberglass webs prior to impregnation. (Col. 8, lines 10-22) Therefore, it is the Examiner's interpretation that assuming the thickness of the webs is 0.762 mm each then the thickness of the core layer should be about 1.524 mm, which reads on the values claimed in claims 8 and 9 of the present application. The reference also discloses the use

of a foam layer applied to the side of the product that is intended to contact the floor. (Col. 2, lines 41-43)

HARKINS, Jr. fails to teach a layer of "absorbing material".

POTEET is directed to floor coverings and comprises a backing layer having a weight from about 0.9 to 24 ounces per square yard [30.5-814 gsm] which comprises a nonwoven fabric composed of randomly oriented polyester fibers. (Refer to claims 1-4)

Since both references relate to floor covering materials, the purpose disclosed by POTEET would have been recognized in the pertinent art of HARKINS, Jr.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the structure of HARKINS, Jr. and provide it with a nonwoven layer with the motivation of providing a covering material which can be pulled from the floor where adhesives have been used, and is easily replaced, but which resists buckling and folding when rolled as disclosed by POTTET. (Refer to Col. 2, lines 16-22)

*Allowable Subject Matter*

9. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach that the foam material is in the form of distinct areolas.

Art Unit: 1771

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez  
Primary Examiner  
Art Unit 1771

March 6, 2006